

Town of Amherst
Zoning Board of Appeals - Special Permit
DECISION

Applicant : Sandra Wang, 97 Crossbrook, Amherst, MA 01002

Date Application filed with the Town Clerk: July 10, 2006

Nature of request: Petitioner seeks a Special Permit, under Sections 8.41 and 9.22 of the Zoning Bylaw, to install a sign in excess of the size typically allowed in the COM zone.

Location of property: 318 College Street, Map 14B, Parcel 222, COM zone.

Legal notice: Published in the Daily Hampshire Gazette on August 3 and 9, 2006, and sent to abutters on August 2, 2006.

Board members: Russ Frank, Hilda Greenbaum and Jane Ashby

Submissions: The applicants submitted the following documents:

- Detailed drawings of proposed awning sign prepared by Excel Signs, dated 8/14/06, 3 sheets
- Details of façade of existing store and cross section of façade showing proposed awning sign
- Estimate of cost and description of proposed work, prepared by Excel Signs, dated 5/10/06

Town staff submitted the following documents:

- Memorandum from the Planning Department, dated August 14, 2006, commenting on the application

Site Visit: August 15, 2006

At the site visit the Board was met by Fred Wang, husband of the applicant. The Board observed the following:

- The location of Mom's House Chinese Food Market as part of a row of stores and businesses, situated on a busy road (Route 9/College Street);
- The outside of the store with the existing sign located on a framework on the sloping area of the roof;
- The parking lot in front of the store;
- The eave of the building which extends a few feet over the walkway.

The Board measured 66 inches out from the building wall, to see how far out over the sidewalk the new awning would extend.

Public Hearing: August 17, 2006

Ms. Greenbaum MOVED to elect Mr. Frank as Chair Pro Tem for this public hearing. Ms. Ashby SECONDED the motion. The Board VOTED unanimously to elect Mr. Frank as Chair Pro Tem.

At the public hearing Sandra Wang presented the petition. She presented pictures of the building and the proposed awning and made the following comments:

- She would like to install an awning over the façade of her store;
- The awning will be red with white letters;

- It will extend over the sidewalk;
- The appearance of the awning will not be wide; it will appear as a narrow strip;
- In combination with the existing sign the new awning sign will cover more than 10% of the façade, which is why a Special Permit is required.

Ms. Greenbaum noted that if there were no words on the awning it would not need a Special Permit.

Ms. Ashby asked if the awning would be retractable. Mr. Frank asked if it would be straight. Ms. Wang responded that the awning would not be retractable and would only be curved in front. She also noted that it would shade the front window from the sun. There will be light fixtures inside the awning to provide lighting. The bottom of the awning will consist of a grid.

Because there were questions concerning the lighting, the Board took a recess while Ms. Wang made a telephone call to obtain more information about the existing and proposed lighting. Ms. Wang returned to the hearing and stated that the existing lighting over the front door would be removed and that 2 double fluorescent lights will be installed above the grid, within the structure of the awning. The new lighting will be downcast and will illuminate the sidewalk. It will also illuminate the sign.

Ms. Ashby and Ms. Greenbaum asked about the possibility of snow and ice build-up on the top of the sign.

Mr. Frank examined the photo in which the new sign is superimposed on the façade. He noted that the proposed sign will double the amount of signage. He suggested taking the words off the awning.

Bonnie Weeks, Building Commissioner, stated that the size of a sign is measured in square feet and is based on the outside dimensions of the sign. The size includes the entire surface area, not just the wording.

Ms. Greenbaum stated that she was concerned about ice accumulation on the awning. She also noted that the existing sign was non-conforming due to its size and that the Board needed to decide if the new awning sign, added to the old sign, would be substantially more detrimental to the neighborhood than the existing sign, by itself.

Ms. Ashby asked if the look of the sign is in keeping with the other signs on the building.

Mr. Frank asked the applicant to explain the primary reason for need the awning. Ms. Wang stated that there are two reasons for the awning: 1) to let people know that the business is there and 2) to block the sun.

Ms. Greenbaum MOVED to close the evidentiary portion of the public hearing. Ms. Ashby SECONDED the motion. The Board VOTED unanimously to close the evidentiary portion of the public hearing.

Public Meeting – Discussion

Ms. Greenbaum and Ms. Ashby stated that they had no problems with the application. Section 9.22 of the Zoning Bylaw allows the Board to grant a Special Permit to expand a non-conformity as long as it is not more detrimental to the neighborhood than the existing non-conformity. The existing sign is non-conforming because it is larger than 10% of the wall of the building. Section 8.41 of the Zoning Bylaw allows the Board to grant a Special Permit to install a directional or identification sign if it serves the public convenience, will not endanger the public safety and will be of such size, location and design as will not be detrimental to the neighborhood. The Board did not discuss the possibility of removing the existing sign.

Public Meeting – Findings:

Under Zoning Bylaw Section 8.41 the Board found that the proposed awning sign serves the public convenience, will not endanger the public safety and will be of such size, location and design as will not be detrimental to the neighborhood.

Under Zoning Bylaw Section 9.22 the Board found that the proposed awning sign would not be substantially more detrimental to the neighborhood than the existing non-conforming sign.

Under Zoning Bylaw Section 10.38 the Board found that:

10.380 and 10.381 – The proposal is suitably located in the neighborhood and is compatible with existing uses because it is located in a Commercial zone, it is surrounded by other commercial uses and the building in which the business is housed has other large signs.

10.382 and 10.385 – The proposal would not constitute a nuisance and reasonably protects the adjoining premises against detrimental or offensive uses on the site because the surrounding uses are similar and there are other large signs on the building.

10.383 and 10.387 – The proposal would not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians and the proposal provides convenient and safe vehicular and pedestrian movement within the site and in relation to adjacent streets because the awning is high enough to allow people to walk comfortably underneath it and it will protect pedestrians on the sidewalk from rain and snow. It will have no effect on vehicular circulation.

10.384 – Adequate and appropriate facilities would be provided for the proper operation of the proposed use because it is adequately designed for the proposed effect of blocking sunlight and providing information about the business.

10.386 – The proposal ensures that it is in conformance with the Parking and Sign regulations of the town because, under Sections 9.22 and 8.41 the Zoning Board may allow a sign greater than that generally allowed in the district provided that it is not substantially more detrimental to the neighborhood and providing that it serves the public convenience and will not endanger the public safety.

10.393 – The proposal provides protection of adjacent properties by minimizing the intrusion of lighting because the proposed lighting will be located inside the awning and will shine down on the sidewalk and not onto adjacent properties or roadways.

10.398 – The proposal is in harmony with the general purpose and intent of the Zoning Bylaw because it uses fluorescent lighting which is more energy efficient than other types of lighting and will act to keep out sunlight from the interior spaces and will thus save on air-conditioning expenses and therefore it protects the health, safety, convenience and general welfare of the inhabitants of the Town of Amherst.

Public Meeting – Zoning Board Decision

Ms. Ashby MOVED to grant the application with conditions. Ms. Greenbaum proposed one condition – that the awning be built according to the plans approved at the public meeting on August 17, 2006.

Ms. Ashby MOVED to grant the application with one condition as stated by Ms. Greenbaum. Mr. Frank SECONDED the motion. The Board VOTED unanimously to approve the application with one condition.

For all the reasons stated above the Board VOTED unanimously to grant a Special Permit with conditions, under Sections 8.41 and 9.22 of the Zoning Bylaw, to install a sign in excess of the size typically allowed in the COM zone, as applied for by Sandra Wang, at 318 College Street, (Map 14B, Parcel 222, COM zone).

RUSSELL FRANK

HILDA GREENBAUM

JANE ASHBY

FILED THIS _____ day of _____, 2006 at _____,
in the office of the Amherst Town Clerk _____.

TWENTY-DAY APPEAL period expires, _____ 2006.

NOTICE OF DECISION mailed this _____ day of _____, 2006
to the attached list of addresses by _____, for the Board.

NOTICE OF PERMIT or Variance filed this _____ day of _____, 2006,
in the Hampshire County Registry of Deeds.

Town of Amherst
Zoning Board of Appeals

SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants a Special Permit, under Sections 8.41 and 9.22 of the Zoning Bylaw, to install a sign in excess of the size typically allowed in the COM zone, as applied for by Sandra Wang, at 318 College Street, (Map 14B, Parcel 222, COM zone) with the following conditions:

1. The awning sign shall be constructed and installed in accordance with the plans and details approved at a public meeting on August 17, 2006.

RUSS FRANK, Chair
Amherst Zoning Board of Appeals

DATE